From: Sheila Polk <Sheila.Polk@yavapai.us>
Date: May 20, 2019 2:36 PM
Subject: Proposed changes to SB1334
To: "J.D. Mesnard" <JMesnard@azleg.gov>
Cc: Marsha Hood <mhood@azleg.gov>

Dear Senator Mesnard,

Thank you for your time today. As promised, attached is a draft of the changes we discussed today regarding SB1334. My draft will strike the current language in SB1334 and add the following:

- Amend ARS 13-701(B) and (C) to specify that for purposes of category 3 sentencing, the historical prior conviction must have occurred on a date that precedes the date of the present offense. This will serve as an absolute bar to sentencing the spree or serial offender currently covered by ARS 13-703 as a category 3 offender even if each offense is tried separately. This proposed language will not alter the current definition of historical prior conviction under ARS 13-105 as the current draft of SB1334 does.
- Amend ARS 13-105)E) to add to the list of mitigating factors for sentencing purposes that the defendant has not previously received services from the probation department or department of corrections.

I want to correct my statement during the meeting regarding the impact of ARS 13-708(D) which, in fact and contrary to my earlier statement, will apply to a person who is on release from another state and is being sentenced for an offense which has occurred within the jurisdiction of Arizona. However, the addition of two years to the sentence is to punish the behavior of the offender who has already been caught, is under a court's jurisdiction, is released back to the community, then absconds. If the current version of SB1334 passes, this offender will still be sentenced under the first-time offender sentencing range, not as a category 1 offender. In fact, he is a multiple offender who was caught and reoffended before he could be sentenced. There is no basis to treat him as a first-time offender.

Please do not hesitate to let me know if you have any questions or how I can be of further assistance.

Best regards,

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Sheila Polk, Yavapai County Attorney

255 East Gurley, Prescott, AZ 86301 / (928) 777-7352